

Appln. No. 09/886,207

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Claims 77-79 specify that the transgenic plant of independent claim 76 (Group I) is a variety of *Brassica*. Claims 93-95 specify that the method of independent claim 88 (Group I) is practised in a variety of *Brassica*. Claims 77-79 and 93-95 therefore recite further limitations to the claims of Group I and are therefore necessarily capable of use together with the claims of Group I. Claims 85-87 specify that the method of independent claim 80 (Group III) is practised in a variety of *Brassica*. Claims 85-87 therefore recite further limitations to the claims of Group III and are therefore necessarily capable of use together with the claims of Group III.

The Examiner contends that Groups I-III are unrelated on the basis that the claims describe inventions having different modes of operation and different effects. This is incorrect because the above-mentioned claims of Group II depend from claims of Group I or III as discussed above, and therefore, by definition, have the same mode of operation and effects as the claims of Groups I and III.

Moreover, because claims 77-79 and 93-95 are directed to the same embodiment of the invention as recited in claims 76 and 88 respectively, and claims 85-87 are directed to the same embodiment of the invention as recited in claim 80, restriction therebetween should not be required. The claims merely vary in breadth or scope of definition (see MPEP § 806.03).

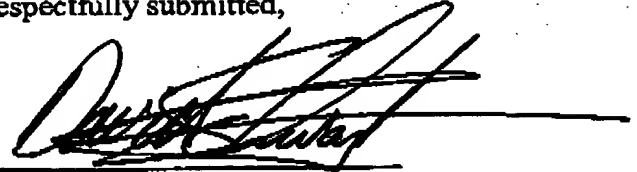
Finally, Applicants respectfully submit that a search for the subject matter of independent claims 76, 80 and 88 will likely disclose any relevant references concerning the application of the claimed invention in *Brassica*, such that searching and examining these additional claims can be made without serious burden. Therefore, claims 77-79 and 93-95 should be searched and examined with Group I and claims 85-87 should be searched with Group III in any event (see MPEP § 303).

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In view of the foregoing, Applicants respectfully request reconsideration of the requirement for restriction.

Respectfully submitted,



David E. Schwartz
Reg. No. 48,211

Dated: December 19, 2002

SMART & BIGGAR
P.O. Box 2999, Station D
900-55 Metcalfe Street
Ottawa, Ontario, Canada
K1P 5Y6
Tel: (613) 232-2486

DES:srq

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Claims

Claim 75 has been cancelled.